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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,072	12/11/2000	Erik B. Christensen	146960.1/40062.72US01	3866

7590 09/23/2004
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EXAMINER

SHRADER, LAWRENCE J

ART UNIT PAPER NUMBER

2124

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/734,072

Applicant(s)

CHRISTENSEN ET AL 

Examiner

Lawrence Shrader

Art Unit

2124

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

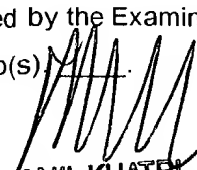
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-30.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
10. ☐ Other: _____


ANIL KHATHI
PRIMARY EXAMINER

Continuation of 2. NOTE:

In response to applicant's argument on page 3 of the Response to Final Office Action, filed on 7/19/2004, that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In the prior Response filed on 3/17/2004, the Applicant alleged that none of the sources of motivation (MPEP 2143.01) provide motivation to combine Fowlow and Goldberg, because Fowlow and Goldberg are solving different problems: that Fowlow discloses distributed objects, and that Goldberg is directed "specifically at database access" (page 12 of the 3/17/2004 remarks), implying that distributed objects are not disclosed in Goldberg. However, one finds in Goldberg (Figure 5 and column 5, lines 3-40) generation of a database schema access object in the context of a distributed object system, being the same context as Fowlow (Figure 1 and column 6, lines 16 - 37). The Applicant's remarks went on to state that "there is no suggestion that one of ordinary skill in the art would combine a Fowlow, a reference dealing with the combination of distributed objects, with Goldberg, a reference directed at providing database access" (page 12 of the 3/17/2004 remarks, last paragraph). So, in the Final office action it was shown that one skilled in the art would have been knowledgeable of distributed object technology, which was the context for both Fowlow and Goldberg (e.g., see "Construct JAVA Applications Through Distributed Object Technology", http://www.javaworld.com/javaworld/jw-12-1997/jw-12-horb_p.html), and also, this common knowledge in conjunction with the teaching of Goldberg would have provided motivation to combine the references. Therefore, the rejection did not rely solely upon the level of skill in the art to provide motivation (as stated in the current 7/19/2004 Response on page 3), but also upon the obvious combination of modifying the programmable object manipulated by Fowlow with a data schema added to the object from Goldberg that would allow server objects to be created and viewed in Fowlow.